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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,950	09/12/2003	Keri A. Holmgren	1058.2.1	8384
36491	7590	09/12/2005	EXAMINER	
KUNZLER & ASSOCIATES 8 EAST BROADWAY SALT LAKE CITY, UT 84111			BURNHAM, SARAH C	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 09/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/661,950

Applicant(s)

HOLMGREN ET AL.

Examiner

Sarah C. Burnham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 21-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 40 is/are allowed.
- 6) ☒ Claim(s) 21-39 is/are rejected.
- 7) ☒ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claims 1-20 been renumbered 21-40. Please note, Applicant should amend the claim dependencies in the next amendment given that the current set of claims is dependent from a set of cancelled claims.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 21-22 and 30-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Greer (4,725,094). With respect to claim 21, Greer discloses an apparatus, disclosed in Figures 14-20, comprising: a flexible thermal barrier (122) shaped and sized to substantially cover and thermally protect an interior portion of an unoccupied child car seat, wherein the flexible thermal barrier (122) is rollable into a storable shape given that it is made out of a flexible towel or terry-like material; a

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securement device (124) configured to be secured to a child car seat; a detachable connector (132)(150) comprising a first connection member (132) connected to the flexible thermal barrier (122) and a second connection member (150) connected to the securement device (124) the first (132) and second (150) connection member configured to detachably connect to each other.

With respect to claim 22, Greer further discloses a fastening strap (130) connecting the first connection member (132) to the flexible thermal barrier (122), the fastening strap (130) configured to retain the flexible thermal barrier (122) in the storable shape.

With respect to claim 30, Greer discloses a flexible thermal barrier (122) shaped and sized to substantially cover and thermally protect an interior portion of an unoccupied child car seat, wherein the flexible thermal barrier (122) is rollable into a storable shape; and a fastening strap (124) connected to the flexible thermal barrier (122), the fastening strap (124) configured to retain the flexible barrier in the storable shape.

With respect to claim 31, Greer further discloses an adjustable attachment strap (130) configured to enable positioning of the flexible thermal barrier in a plurality of storage positions.

With respect to claim 32, the adjustable attachment strap (130) facilitates storing the flexible thermal barrier in a storage position above a child car seat.

With respect to claim 33, the adjustable attachment strap (130) facilitates storing the flexible thermal barrier (122) in a storage position behind a child car seat.

With respect to claim 34, Greer discloses a detachable connector comprising a first connection member (150) configured to receive the fastening strap (124) and a second connection member (132) configured to receive the adjustable attachment strap (130), the first (150) and second (132) connection members configured to detachably connect to each other.

4. Claims 21, 23-25, 30, 31 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Walker (5,441,789). With respect to claim 21, Walker discloses an apparatus comprising: a flexible thermal barrier (10) shaped and sized to substantially cover and thermally protect an interior portion of an unoccupied child car seat, wherein the flexible thermal barrier (10) is rollable into a storable shape given that it is made of towel material; a securement device (16) configured to be secured to a child car seat; a detachable connector (12)(14) comprising a first connection member (14) connected to the flexible thermal barrier (10) and a second connection member (unlabeled) in the form of hook and loop type fastener connected to adjustable attachment strap (12) connected to the securement device (16), the first and second connection member configured to be detachably connected to each other.

With respect to claim 23, Walker discloses an adjustable attachment strap (12) connecting the second connection member (unlabeled) to the securement device (16), the adjustable attachment strap (12) configured to enable positioning of the flexible thermal barrier in a plurality of storage positions.

With respect to claims 24 and 25, the adjustable attachment strap (12) facilitates storing the flexible thermal barrier (10) in a storage position above a child car seat or behind a child car seat.

With respect to claims 30, 31 and 25, Walker discloses a flexible thermal barrier (10) and a fastening strap (12) connected to the flexible thermal barrier, the fastening strap configured to retain the flexible thermal barrier (10) in the storable shape and an adjustable attachment strap (12) configured to enable positioning of the flexible thermal barrier (10) in a plurality of storage positions and a securement device (16) connected to the adjustable attachment strap (12) and secured to the child seat.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 26-27 and 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greer (4,725,094) in view of Rosen (5,549,354). As disclosed above, Greer reveals all claimed elements with the exception of a washable thermal barrier with a first absorbent face and a second reflective face

A washable flexible thermal barrier (30) comprising: an absorbing layer (44) configured to absorb radiant energy on a first face of the flexible thermal barrier and, a

reflecting layer (46) which "may be only a metalized film, having a highly reflective surface" (column 5, lines 63-64).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to use the material disclosed by Rosen to form the apparatus disclosed by Greer. Such a modification ensures that the seat is protected from the heat (column 5, lines 5-6).

7. Claims 28 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greer (4,725,094) in view of O'Sullivan (5,572,757). As disclosed above, Greer reveals all claimed elements with the exception a detachable pouch with a water absorbent lining.

O'Sullivan teaches the use of a detachable pouches (54) made of absorbent terry cloth material for containing a temperature moderation device (52).

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to modify the apparatus disclosed by Greer, to include detachable pouches as taught by O'Sullivan. Such a modification would enable the pouches to be positioned where they are most effective.

8. Claims 29 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greer (4,725,094) in view of O'Sullivan (5,572,757) and in further view of Boyer et al. (6,088,856). As disclosed above, Rosen, as modified, reveals all claimed elements with the exception of a pouch comprising waterproof material.

Boyer teaches the use of a waterproof pouch (14) for containing liquids located inside a support element.

It would have been obvious to one of ordinary skill in the art at the time of the instant invention to make the pouch elements (38)(38a) disclosed by Greer, as modified, waterproof. Such a modification would prevent the condensation for the cool or warming element located inside the pouch from making the covering material wet.

***Allowable Subject Matter***

9. Claim 40 is allowed.

***Response to Amendment***

10. The amendment filed on July 7, 2005 has been considered in its entirety. Remaining issues are detailed in the section above.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Miller et al. (6,135,635); Barnes (5,243,724); Imm (5,956,767); Lee (4,877,288); Achley (5,010,610); Rocha (5,275,463); Walker (5,441,789) and Plohetski (6,030,034).




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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah C. Burnham whose telephone number is 571-272-6854. The examiner can normally be reached on M-Th 7:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571-272-6856. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SCB  
August 30, 2005

  
**Peter M. Cuomo**  
**Supervisory Patent Examiner**  
**Technology Center 3600**